

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DUANE F. FERGUSON
P. O. Box 2169
Upland, CA 91785
Certified Public Accountant License
No. CPA 34598

Respondent.

Case No. AC-2008-7

OAH No. [Unassigned]

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order are hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 26, 2008.

It is so ORDERED. September 26, 2008



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 BRIAN G. WALSH, State Bar No. 207621
Deputy Attorney General
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5 Telephone: (213) 897-2535
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **CALIFORNIA BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 DUANE F. FERGUSON
P. O. Box 2169
Upland, CA 91785
Certified Public Accountant License
14 No. CPA 34598

15 Respondent.

Case No. AC-2008-7

OAH No. [Unassigned]

16 **STIPULATED SETTLEMENT AND**
17 **DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Carol Sigmann (Complainant) is the Executive Officer of the California
22 Board of Accountancy. She brought this action solely in her official capacity and is represented
23 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by
24 Brian G. Walsh, Deputy Attorney General.

25 2. Respondent Duane F. Ferguson (Respondent) is representing himself in
26 this proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about May 7, 1982, the California Board of Accountancy (Board)
28 issued Certified Public Accountant License No. CPA 34598 to Respondent. The license was in

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1 full force and effect at all times relevant to the charges in Accusation No. AC-2008-7, and will
2 expire on January 31, 2009, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. AC-2008-7 was filed before the Board and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on March 27, 2008. Respondent timely filed his Notice of
7 Defense contesting the Accusation. A copy of Accusation No. AC-2008-7 is attached as exhibit
8 A and incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read and understands the charges and allegations
11 in Accusation No. AC-2008-7. Respondent has also carefully read and understands the effects of
12 this Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
15 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
16 the right to present evidence and to testify on his own behalf; the right to the issuance of
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to
18 reconsideration and court review of an adverse decision; and all other rights accorded by the
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in
24 Accusation No. AC-2008-7.

25 9. Respondent agrees that his Certified Public Accountant License is subject
26 to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
27 Disciplinary Order below.

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1 2. **Submit Written Reports.** Respondent shall submit, within ten (10) days
2 of completion of the quarter, written reports to the Board on a form obtained from the Board.
3 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
4 and verification of actions as are required. These declarations shall contain statements relative to
5 Respondent's compliance with all the terms and conditions of probation. Respondent shall
6 immediately execute all release of information forms as may be required by the Board or its
7 representatives.

8 3. **Personal Appearances.** Respondent shall, during the period of probation,
9 appear in person at interviews/meetings as directed by the Board or its designated
10 representatives, provided such notification is accomplished in a timely manner.

11 4. **Comply With Probation.** Respondent shall fully comply with the terms
12 and conditions of the probation imposed by the Board and shall cooperate fully with
13 representatives of the Board in its monitoring and investigation of the Respondent's compliance
14 with probation terms and conditions.

15 5. **Practice Investigation.** Respondent shall be subject to, and shall permit,
16 practice investigation of the Respondent's professional practice. Such a practice investigation
17 shall be conducted by representatives of the Board, provided notification of such review is
18 accomplished in a timely manner.

19 6. **Comply With Citations.** Respondent shall comply with all final orders
20 resulting from citations issued by the Board.

21 7. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
22 Respondent should leave California to reside or practice outside this state, Respondent must
23 notify the Board in writing of the dates of departure and return. Periods of non-California
24 residency or practice outside the state shall not apply to reduction of the probationary period, or
25 of any suspension. No obligation imposed herein, including requirements to file written reports,
26 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
27 affected by such periods of out-of-state residency or practice except at the written direction of the
28 Board.

1 8. **Cost Reimbursement.** Respondent shall reimburse the Board \$3,000.00
2 for its investigation and prosecution costs. The costs shall be paid in quarterly payments in equal
3 installment amounts. The quarterly payments shall be due on the same date as the quarterly
4 reports. The final payment must be made by six (6) months before the date on which probation is
5 scheduled to end.

6 9. **Violation of Probation.** If Respondent violates probation in any respect,
7 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
8 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
9 probation is filed against Respondent during probation, the Board shall have continuing
10 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
11 is final.

12 10. **Completion of Probation.** Upon successful completion of probation,
13 Respondent's license will be fully restored.

14 ACCEPTANCE

15 I have carefully read the Stipulated Settlement and Disciplinary Order.
16 I understand the stipulation and the effect it will have on my Certified Public Accountant
17 License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,
18 and intelligently, and agree to be bound by the Decision and Order of the California Board of
19 Accountancy.

20 DATED: JULY 10, 2008

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DUANE F. FERGUSON
Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order are hereby
3 respectfully submitted for consideration by the California Board of Accountancy of the
4 Department of Consumer
5 Affairs.

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7 DATED: June 30, 2008

8 EDMUND G. BROWN JR., Attorney General
9 of the State of California

10 GREGORY J. SALUTE
11 Supervising Deputy Attorney General

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14 BRIAN G. WALSH
15 Deputy Attorney General

16 Attorneys for Complainant

17 DOJ Matter ID: LA2007601734
18 60311857.wpd
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Exhibit A
Accusation No. AC-2008-7

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KEVIN W. BUSH, State Bar No. 210322
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

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CALIFORNIA BOARD OF ACCOUNTANCY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2008-7

13 DUANE F. FERGUSON
P.O. Box 2169
14 Upland, CA 91785

A C C U S A T I O N

15 Certified Public Accountant License No. CPA
34598

16
17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the California Board of Accountancy (Board), Department of
23 Consumer Affairs.

24 2. On or about May 7, 1982, the Board issued Certified Public Accountant
25 License No. CPA 34598 to Duane F. Ferguson (Respondent). The license was in full force and
26 effect at all times relevant to the charges brought herein against Respondent and will expire on
27 January 31, 2009, unless renewed.

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b. Respondent failed to timely file his Federal individual income tax returns (Form 1040) for the tax years 2001, 2002, 2003 and 2004. Moreover, Respondent was delinquent in satisfying a Federal tax obligation in an amount exceeding \$8,600.00

c. Respondent failed to timely file his Employer's Quarterly Federal tax returns (Form 941) for his firm, Duane F. Ferguson, CPA, for the period ending September 2005. Moreover, there is a pattern of untimely payments resulting in tax penalties for failure to deposit and pay taxes for the quarters ending December 2001, March 2002, June 2002, September 2002, December 2002, June 2003, September 2003, December 2003, March 2004, June 2004, September 2004, March 2005 and June 2005.

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking, suspending, or otherwise imposing discipline upon Certified Public Accountant License No. CPA 34598, issued to Duane F. Ferguson;

2. Ordering Duane F. Ferguson to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107; and

3. Taking such other and further action as deemed necessary and proper.

DATED: March 11, 2008


CAROL SIGMANN
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant